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കേരള ഗസറ്റ്
KERALA GAZETTE
അസാധാരണം
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
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Thiruvananthapuram, Saturday

2025 ആഗസ്റ്റ് 30
30th August 2025
1201 ചിങ്ങം 14
14th Chingam 1201
1947 ഭാദ്രം 8
8th Bhadra 1947

നമ്പർ No. 3121

GOVERNMENT OF KERALA

Home (S) Department

NOTIFICATION

G. O. (P) No. 87/2025/Home.

Dated, Thiruvananthapuram, 29th August, 2025 / 13th Chingam,1201 / 7th Bhadra, 1947.

The Government of Kerala is pleased to notify the Standard Operating Procedure to be followed with respect to a complaint against a public servant arising in the course of the discharge of his official duties under sub-section (4) of Section 175 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. The Standard Operating Procedure for

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processing complaints against public servants under Section 175(4) of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 is attached herewith.

By order of the Governor,

BISHWANATH SINHA,
Additional Chief Secretary to Government.

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Standard Operating Procedure for Processing Complaints Against Public Servants under Section 175(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023

Introduction

Section 175(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023, (Sanhita) requires a Magistrate, before ordering an investigation into a complaint against a public servant in the discharge of official duties, to first consider (a) a report from the superior officer of the public servant, and (b) assertions made by the public servant regarding the incident.

This SOP does not aim to prescribe or regulate the exercise of judicial discretion under the provision, which remains an exclusive judicial function. Rather, the objective of this SOP is to streamline the procedure by which the superior officer and the public servant furnish the required materials to the Magistrate, so as to facilitate timely and informed judicial decision-making.

The SOP defines timelines, content, and mode of submission of such materials, and sets out the consequences of non-compliance by the executive functionaries. It is intended to ensure procedural uniformity, accountability, and prompt communication, while preserving the independence of the judicial process.

Purpose

The purpose of this Standard Operating Procedure (SOP) is to provide procedural clarity to the stakeholders involved in the implementation of Section 175(4) of the Bharatiya Nagarik Suraksha Sanhita, 2023. It is intended to guide:

- the public servant against whom an allegation has been made in connection with acts done in the course of official duties; and
- the officer superior to such a public servant, who is required to submit a factual report to the Magistrate.
- The officers involved in the process, including the staff of the court concerned, in transmitting and receiving the notices.

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This SOP outlines the timelines, content, and mode of submission of reports and assertions as required under the statute. It seeks to ensure prompt, uniform, and accountable compliance with the statutory prerequisites, thereby enabling the Magistrate to exercise judicial discretion on an informed basis. It does not, in any manner, guide or limit the exercise of such judicial discretion.

Scope

This Standard Operating Procedure applies to all cases where a Judicial Magistrate, empowered under Section 210 of the Bharatiya Nagarik Suraksha Sanhita, 2023, receives a complaint against a public servant in connection with acts alleged to have been committed in the course of discharge of official duties.

It governs the procedural responsibilities of:

- the public servant concerned, who may submit assertions in relation to the alleged incident; and
- the officer superior to such a public servant, who is required to submit a report containing the facts and circumstances of the incident.

This SOP prescribes the timelines, content, and mode of submission of such materials to the Magistrate. It does not regulate the decision-making process of the Magistrate, which remains an independent judicial function.

Objective

To ensure procedural clarity and timely compliance with the statutory requirements under Section 175(4) of the Sanhita by the concerned executive authorities.

Statutory Basis

Section 175(4) of the Sanhita, 2023 reads as follows:

> *Any Magistrate empowered under section 210, may, upon receiving a complaint against a public servant arising in course of the discharge of his official duties, order investigation, subject to—*
>
> *(a) receiving a report containing facts and circumstances of the incident from the officer superior to him; and*
>
> *(b) after consideration of the assertions made by the public servant as to the situation*

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that led to the incident so alleged.

Background of the SOP

Section 175 of the Sanhita, 2023, lays down the procedure for investigation of cognizable cases. Sub-sections (3) and (4) of Section 175 of the Sanhita outline the powers of a Magistrate, empowered under Section 210, to order investigation based on a complaint or application, subject to statutory safeguards. Section 175(4) of the Sanhita imposes an additional procedural safeguard when the complaint is against a public servant in relation to acts done in the course of official duties. These statutory requirements are to be read in conjunction with Section 223(2) of the Sanhita, which bars the Magistrate from taking cognizance in such cases unless the same two conditions—receipt of the superior officer's report and consideration of the public servant's assertions are satisfied.

In this context, the SOP comes into application immediately after the Magistrate has considered the contents of the complaint, applied judicial mind to determine prima facie whether an investigation is warranted under Section 175(1) of the Sanhita or whether sufficient materials exist to take cognizance and proceed under Section 223(2) of the Sanhita, and then proceeds to act under S. 175(4) of the Sanhita.

It is again clarified that this SOP does not govern the judicial function of the Magistrate under Sections 175(3), 175(4), or 223(2) of the Sanhita. Its limited objective is to ensure that the procedural responsibilities cast upon the superior officer and the public servant are discharged uniformly, promptly, and in accordance with law—so that the Magistrate is enabled to perform the judicial function based on complete and timely information.

Standard Operating Procedure

(A) Issuance of Notice by Magistrate

(1) Upon receiving a complaint falling under Section 175(4) of the Bharatiya Nagarik Suraksha Sanhita, wherein allegations are made against a public servant in relation to acts committed in course of the discharge of official duties, the Magistrate, upon being satisfied that the allegations are indeed directed against a public servant and pertain to actions arising in course of the discharge of official duties, shall proceed to:

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(a) issue notice to the officer superior to such a public servant, calling for a report containing facts and circumstances of the incident alleged in the complaint and

(b) issue notice to the public servant against whom the allegations have been made, requiring him/her to submit a written assertion or explanation regarding the incident referred to in the complaint.

(2) The Magistrate may issue both notices—one to the superior officer and the other to the public servant—simultaneously.

(3) "Superior officer," in the context of these guidelines, refers to the immediate superior officer who exercises administrative control over the official duties of the public servant against whom the allegations have been made.

(4) At the time of filing the complaint, the complainant shall submit sufficient copies of the complaint and all enclosures, if any, so that the same may be furnished to the public servant and the superior officer along with the respective notices.

(5) While issuing the notices, the Magistrate shall also specify a time limit within which the public servant and the superior officer shall submit their respective responses. Compliance with the timeline so prescribed shall be mandatory for both the public servant and the superior officer.

(B) Issue and Service of Notices and Communications.

(6) Notices and communications under Section 175(4) of the Sanhita may be served electronically or through any other legally permissible mode, as may be considered appropriate by the Magistrate.

(C) Contents of the Reports

(7) The superior officer shall be duty-bound to disclose, in the report submitted, all available details of the incident to the fullest extent possible, and shall do so in a fair, objective, and unbiased manner. For the purpose of preparing such a report, the superior officer may, if necessary, obtain relevant information from the public servant against whom the allegations have been made.

(8) All assertions and reports shall include the name and official designation of the

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person submitting them. When the report is filed by the superior officer, it shall also specify whether any departmental action has been taken against the public servant based on the incident alleged in the complaint.

(D) Time Limit for Submission of reports

(9) If the public servant or superior officer is unable to submit the report or written assertions within the time fixed by the Court, they may apply in writing to the Court, in advance, requesting an extension of the time limit. Upon considering such a request, if the Court grants an extension and fixes a new time limit, the public servant or superior officer shall comply with the same without fail. The application for extension shall be accompanied by a separate affidavit, which shall set forth in detail the efforts made by the applicant thus far to comply with the Court's direction and the reasons that prevented timely compliance.

(10) Unless otherwise specified by the Court, the superior officer shall furnish the report, and the public servant shall submit the written assertions, within seven working days from the date of receipt of the notice.

(11) The reports and written assertions shall be filed before the Court along with a set of copies thereof. Prior to filing, the superior officer or the public servant, as the case may be, shall furnish a copy of the report or assertions to the Public Prosecutor/ Additional Public Prosecutor/ Assistant Public Prosecutor/ Special Public Prosecutor, attached to the Court.

(12) Where the public servant against whom allegations are made fails to submit any written assertion, or does not appear on the date fixed for hearing to make oral assertions, the Magistrate may proceed with the complaint as if the public servant has no response to offer.

(13) Where the superior officer of the public servant fails to furnish the report called for within the time fixed or extended by the Court, the Court may, having regard to the facts and circumstances, proceed with the complaint and may order an investigation or otherwise dispose of the complaint as deemed appropriate.

(E) Confidentiality

(14) In sensitive matters, such as those involving the Police or Armed Forces, the Magistrate may direct that the reports and statements be submitted confidentially, preferably in

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a sealed cover, and that the proceedings be conducted in camera.

(F) No Interference with Judicial Discretion

(15) This SOP is intended only to facilitate effective procedure and communication and does not in any manner bind or restrict the judicial discretion of the Magistrate under Section 175(4).

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AT THE GOVERNMENT CENTRAL PRESS, THIRUVANANTHAPURAM, 2025

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